

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9652

IN THE MATTER OF:

Served June 15, 2006

Application of BUSINESS LOGISTICS	)	Case No. AP-2006-002
GROUP, L.L.C., Trading as ATS,	)	
L.L.C., for a Certificate of	)	
Authority -- Irregular Route	)	
Operations	)	

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

Under Article XI, Section 7(a), of the Compact, the Commission shall issue a certificate of authority to any qualified applicant, authorizing all or any part of the transportation covered by the application, if the Commission finds that: (i) the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission; and (ii) the transportation is consistent with the public interest.

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.<sup>1</sup> A determination of compliance fitness is prospective in nature.<sup>2</sup> The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.<sup>3</sup> Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.<sup>4</sup>

**I. BACKGROUND**

Applicant is owned 50 percent by Spencer T. Chambliss, Jr.<sup>5</sup> Mr. Chambliss was vice president of Answers, Inc., when it held WMATC Certificate No. 488. That certificate was revoked in 2002 for Answers' willful failure to comply with the Commission's insurance

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<sup>1</sup> In re *EMK Services, Inc.*, No. AP-05-168, Order No. 9391 (Mar. 16, 2006).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> According to the proposed tariff originally filed with the application, Mr. Chambliss is applicant's vice president.

requirements.<sup>6</sup> Prior to revocation, Answers was assessed a \$200 civil forfeiture in 2002 for willful failure to file its annual report for 2001, as directed by Commission Order No. 6777, and pay the \$100 annual fee for 2002, as directed by Commission Order No. 6778.<sup>7</sup>

## II. CURRENT APPLICATION

Applicant proposes commencing operations with one van and five sedans. Applicant's amended proposed tariff contains rates for service under a contract with Arlington County, Virginia.

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Applicant published notice of this application in a newspaper of general circulation as directed by the initial order in this proceeding, and no comments, requests for intervention or protests have been received.

Normally, such evidence would establish applicant's fitness,<sup>8</sup> but in this case, as noted, applicant's 50% owner controls Answers, Inc., which has a history of regulatory violations. When a person controlling an applicant has a record of violations, or a history of controlling companies with such a record, the Commission considers the following factors in assessing the likelihood of applicant's future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether the controlling party has made sincere efforts to correct past mistakes, and (5) whether the controlling party has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.<sup>9</sup>

Answers' violation of Regulation No. 58 was serious enough to warrant revocation of Certificate No. 488. Indeed, the Commission has noted before that maintaining proper insurance coverage is of paramount

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<sup>6</sup> *In re Answers, Inc.*, No. MP-02-58, Order No. 6831 (Oct. 2, 2002).

<sup>7</sup> *In re Answers, Inc.*, No. MP-02-70, Order No. 6870 (Oct. 28, 2002).

<sup>8</sup> *In re Henka Int'l, Inc.*, t/a Worldwide Tours & Travel, No. AP-03-184, Order No. 8035 (May 27, 2004); *In re VGA, Incorporated*, No. AP-03-73, Order No. 7496 (Oct. 29, 2003).

<sup>9</sup> Order No. 8035.

importance under the Compact.<sup>10</sup> Furthermore, Answers' failure to pay its annual fee and file an annual report demonstrated an unwillingness to comply with the Compact and the Commission's rules and regulations.

On the other hand, the belated payment of Answers' 2002 annual fee and \$200 in outstanding civil forfeitures demonstrates an effort on Mr. Chambliss's part to correct past mistakes,<sup>11</sup> and Mr. Chambliss has filed a sworn statement that Answers ceased transporting passengers for hire in the Metropolitan District as of November 17, 2001,<sup>12</sup> well before Certificate No. 488 was suspended or revoked. Furthermore, Mr. Chambliss has caused applicant to hire an attorney, who will be able to furnish ongoing regulatory compliance advice.

The Commission has found other applicants fit under similar circumstances.<sup>13</sup> Applicant, however, shall serve a one year period of probation as a means of ensuring prospective compliance.<sup>14</sup>

Applicant is admonished to keep its assets, books, finances and operations completely separate from those of Answers. Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.<sup>15</sup>

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

THEREFORE, IT IS ORDERED:

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<sup>10</sup> See, e.g., *In re EMK Services Inc.*, No. AP-05-05, Order No. 8291 (Aug. 19, 2005).

<sup>11</sup> *Id.*

<sup>12</sup> Verified Answer and Affirmative Defenses of Applicant to January 31, 2006 Order of the Commission and Motion for Enlargement of Time to Submit Additional Materials Responsive to 01/31/06 Order of Commission, Including Affidavit from MV Transportation, Inc., at 5.

<sup>13</sup> See Order No. 9391 (Mar. 16, 2006) (paying forfeiture and retaining compliance attorney after revocation for insurance violation); Order No. 8035 (filing vehicle markings affidavit and accounting for vehicles after revocation of affiliate's certificate for insurance violation); Order No. 7496 (retaining compliance attorney after revocation for insurance violation); *In re Shirlington Limo. & Transp., Inc.*, No. AP-02-20, Order No. 6709 (June 21, 2002) (payment of insurance violation forfeiture after revocation for annual report violation); *In re William J. Appell, t/a Tech Tours*, No. AP-96-01, Order No. 4830 (May 8, 1996) (cessation of operations and payment of forfeiture after revocation for annual fee/report violations).

<sup>14</sup> See Order No. 9391 (one year probation); Order No. 8035 (same); Order No. 7496 (same); Order No. 6709 (same);

<sup>15</sup> *In re Medina Transp. Serv., t/a Medina Express*, No. AP-02-73, Order No. 6796 (Sept. 3, 2002).

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1241 shall be issued to Business Logistics Group, L.L.C., trading as ATS, L.L.C., 201 Elden Street, #203, Herndon, VA 20170.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

3. That applicant is hereby directed to present its revenue vehicle(s) for inspection and file the following documents within the 180-day maximum permitted in Commission Regulation No. 66: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the for-hire vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; and (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia.

4. That applicant shall be placed on probation for a period of one year commencing with the issuance of a certificate of authority in accordance with the terms of this order and that a willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, by applicant or its members during the period of probation shall constitute grounds for immediate suspension and/or revocation of applicant's operating authority without further proceedings, regardless of the nature and severity of the violation.

5. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, SMITH, AND CHRISTIE:



William S. Morrow, Jr.  
Executive Director